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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL No. 389 OF 2007
IN
NOTICE OF MOTION No. 2559 OF 2006

Rekha A. Bhatia ... Appellant

Vs.

Anil H. Bhatia & Ors. ... Respondents

Mr. S. P. Dubey Advocate for Appellant.

Anil H. Bhatia, the respondent No.1 in person.

CORAM : R. M. S. KHANDEPARKAR
AND
D. G. KARNIK, JJ.

DATE : JUNE 7, 2007.

PC :-

. Heard. This appeal has arisen from the order dated 15th February 2007 passed in Notice of Motion No. 2559 of 2006. By the impugned order , the learned Single Judge has dismissed the application for condonation of delay, while observing that since the Review Petition itself is not maintainable, question of condoning the delay for filing Review Petition does not arise. The said observation has been made taking into consideration the fact that the

award which was sought to be reviewed was subject to the decision of the appeal preferred by the appellant, though the appeal was subsequently withdrawn on 3-5-2006. Considering provisions of Section 114 of the Code of Civil Procedure, which clearly provides that a review can be filed in relation to any order except when no appeal has been preferred, no fault can be found with the impugned order. The learned counsel appearing for the appellant has fairly conceded that the appeal was filed against the order sought to be reviewed, and that it was not an incompetent appeal. Being so, the impugned order does not suffer from any illegality or infirmity and does not warrant any intereference in the order.

[D. G. KARNIK, J.] [R.M.S. KHANDEPARKAR, J.]